

Applicant : Walter Callen et al.
Serial No. : 10/081,872
Filed : February 21, 2002
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Attorney's Docket No.: 09010-108001

REMARKS

Status of the Claims

Pending claims

Claims 1 to 120 are pending, as filed.

Information Disclosure Statement and Preliminary Amendment

Applicants make note of the Information Disclosure Statement and Form PTO-1449 filed March 11, 2003, and the Preliminary Amendment filed September 25, 2002.

The Restriction Requirements

Patent Office has alleged that the pending claims of the application are directed to eight hundred and ninety-nine (899) separate and distinct inventions under 35 U.S.C. §121.

The Election

In response to the Restriction Requirement, Applicants elect Group 62, for the nucleic acid having a sequence as set forth in SEQ ID NO:125, claims 1-29, 47-48, 74-92, and 101-106, drawn to a nucleic acid having a sequence as set forth in SEQ ID NO:125, vectors, host cells, probes and a method of making the encoded polypeptide (SEQ ID NO:126), with traverse.

Applicants respectfully request that, after the elected product claims have been found to be allowable, all withdrawn process (methods) claims which depend from or otherwise include all of the limitations of the allowed product claims be rejoined. MPEP §821.04; pg 800-63, 8th Edition, August 2001; *In re Ochiai*, 37 USPQ2d 1127 (Fed. Cir. 1995); *In re Brouwer*, 37 USPQ2d 1663 (Fed. Cir. 1995); 1184 OG 86, 3/26/96.

Reasons to reconsider and withdraw restriction requirement

Applicants respectfully request the Patent Office reconsider and, in part, withdraw the restriction requirement for the following reasons:

Applicants respectfully request that Groups 34, 36-38, 41-43, 50-56, 58, 60-79, 81, and 83-105, corresponding to odd numbered SEQ ID NOS:69, 73-77, 83-87, 101-113, 117, 121-159, 163, and 167-211, be rejoined, as they are all isolated from environmental samples. To the best of Applicants' knowledge, isolating amylases from environmental sources is novel.

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Applicants respectfully aver that after a complete search directed to the amylase as set forth in SEQ ID NO:125, it would not be an undue burden for the Patent Office to also do a complete search for corresponding amylases isolated from environmental sources. Accordingly, Applicants respectfully request the Patent Office to rejoin all claims directed to amylases isolated from environmental sources into one restriction group.

If an additional fee is required, the Commissioner is authorized to deduct such fee from the undersigned's Deposit Account No. 06-1050. Please credit any overpayment to the above-noted Deposit Account.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858 678 5070.

Respectfully submitted,

Date: June 22, 2003



Gregory P. Einhorn
Reg. No. 38,440

Fish & Richardson P.C.
4350 La Jolla Village Drive, Suite 500
San Diego, California 92122
Telephone: (858) 678-5070
Facsimile: (858) 678-5099

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